

HOUSE No. 806

The Commonwealth of Massachusetts

PRESENTED BY:

Karyn E. Polito

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to certain municipal costs.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|-------------------|--------------------------------|
| Karyn E. Polito | 11th Worcester |
| Paul K. Frost | 7th Worcester |
| John J. Binienda | 17th Worcester |
| John F. Quinn | 9th Bristol |
| Todd M. Smola | 1st Hampden |
| Scott P. Brown | Norfolk, Bristol and Middlesex |
| Michael R. Knapik | Second Hampden and Hampshire |

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO CERTAIN MUNICIPAL COSTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1. Notwithstanding the provisions of section 27C of chapter 29 of the General Laws as most recently amended by section 24 of chapter 71 of the Acts of 1993, or any other general or special law to the contrary, any proposal initiated by the Department of Environmental Protection in the form of a rule, regulation or so-called guidance document or policy resulting in the imposition of additional cost to a city or town shall be termed a “local mandate”. Local mandates shall include but not be limited to any Department of Environmental Protection initiated rule, regulation or so-called guidance document or policy that: (1.) requires any city or town to undertake any service or direct or indirect cost obligation, or to establish, expand or modify any existing activity in such a way that results in the expenditure of funds or resources, or results in the diversion of funds or resources from any existing activity. For the purposes of this section, the term “existing activity” shall include any program or service lawfully undertaken by any city or town under the authority of any law, special law, administrative rule or regulation or city or town charter, or; (2.) relieves the state or a county from providing a service or program so that any city or town instead incurs the direct or indirect cost of such service or program.
2. Section 2. No proposal initiated by the Department of Environmental Protection in the form of a rule or regulation, or any so-called guidance document or policy, shall become effective until a regulatory impact statement has been completed, made public during the hearing process described in chapter 30A of the General Laws and filed with the secretary of state. The regulatory impact statement shall: (a) identify the problem, issue or deficiency addressed by the proposal; (b) identify the methodology or approach, including identification of expert information and analysis used to address the problem, issue or deficiency; (c)

identify stakeholders who will be affected and to what extent by the proposal; (d) identify when such proposal will become effective, when such proposal will be changed, if known, and how and when the proposal will be reviewed in the future, if at all; (e) identify and describe the immediate and long term financial impacts of the proposal on all stakeholders, including the agency or entity issuing the proposal, any affected private party or entity, the state, the cities and towns, and the general public. Such financial impact statement shall consider permitting costs, internal compliance costs, and indirect costs, if any; (f) identify the fiscal effect on the public and private sectors for the first and second year of the proposal's existence, and provide a projection of fiscal impact over the first five years of the proposal's existence; and (g) identify and describe, specifically, the benefits of the proposal. The secretary of administration and finance shall adopt regulations to further define and implement the use of regulatory impact statements in said executive offices' and agency's rulemaking.

3. Section 3. The Department of Environmental Protection shall maintain a notification list of stakeholders in their proposals and who may request preliminary notification of such proposals, such request renewed annually by persons or groups in December. No later than thirty days prior to the notice of hearing described above the agency shall send a preliminary notification of the proposal to each stakeholder who has requested preliminary notification of the proposal and to the Joint Legislative Committee on Natural Resources, the Joint Legislative Committee on Local Affairs, the House and Senate Committees on Ways & Means, the Office of the State Auditor and the Massachusetts Municipal Association.

4. The preliminary notification of the proposal shall (a) identify the proposal to be noticed for hearing and the scope of the proposal, (b) provide the statutory authority for such proposal, and (c) identify the person within said executive office or agency responsible for the proposal and who can be contacted for more information.

5. Section 4. No proposal initiated the by the Department of Environmental Protection in the form of a rule, regulation, so-called guidance document or policy shall become effective until said executive office and agency have complied with the provisions of Massachusetts Administrative Procedures Act established under the provisions of Chapter 30A of the General Laws. Any entity claiming to be aggrieved by lack of compliance with said chapter by said executive office or agency shall be permitted to file a petition for relief with the superior court.